ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO. 26076 OF 2006

Mr. Dhiraj Shah ...Appellant.

Vs.

Municipal Council of Greater Mumbai. ...Respondent.

ALONG WITH

FIRST APPEAL (ST) NO. 26073 OF 2006

Mr. Ramesh T. Ramani ...Appellant.

Vs.

Municipal Council of Greater Mumbai. ...Respondent.

ALONG WITH

FIRST APPEAL (ST) NO. 26079 OF 2006

Mr. Rayaji Baburao Jamble ...Appellant.

Vs.

Municipal Council of Greater Mumbai. ...Respondent.

ALONG WITH

FIRST APPEAL (ST) NO. 26085 OF 2006

Mr. Jagdish Dedhia ...Appellant.

Vs.

Municipal Council of Greater Mumbai. ...Respondent.

ALONG WITH

FIRST APPEAL (ST) NO. 26082 OF 2006

Mrs. Sandhya Vichare ...Appellant.

Vs.

Municipal Council of Greater Mumbai. ...Respondent.

ALONG WITH

FIRST APPEAL (ST) NO. 26091 OF 2006

Mr. Nanji Dhanji Vicchoria ...Appellant.

Vs.

Municipal Council of Greater Mumbai. ...Respondent.

Mr. Mayur Thorat i/by Shri Bipin Joshi for the appellants.

Mr. J.J. Xavier for the BMC.

CORAM : ANOOP V. MOHTA,J.

DATED : 9th October, 2007.

P.C.

1. By consent heard forthwith as the facts in this appeal, are more or less identical to the facts of the first appeal No. 720 of 2006 and others, which have been disposed of by the common order dated 5th May, 2006. These appeals, therefore, are being disposed off by common order at this stage of admission itself.

2. The learned counsel appearing for the parties fairly stated that these appeal are left out appeals from the group as referred above. There is no dispute about the facts and issue involved.

3. Therefore, taking note of this without discussing further on the merits of the matter, in view of the above order dated 05/05/2006 in first appeal No. 720/2006 and others, the present appeals are disposed of, as per the identical terms as reproduced below.

i) The impugned Judgments and Decrees are set aside.

ii) L.C.Suit Nos. 393/2001, 389/2001, 390/2001, 391/2001, 394/2001, and 395/2001 are restored to file. The parties will appear before the learned trial Judge on 21st November, 2007 at 11.00 a.m. The learned trial Judge will frame proper issues arising out of the pleadings and the parties will be at liberty to lead evidence on those issues in addition to the evidence which is already on record.

iii) The learned trial Judge will decide the suits afresh in the light of the observations made in this judgment and after considering the evidence already on

record and the evidence which will be adduced after the order of remand. The learned trial Judge will decide the suits as expeditiously as possible and preferably on or before 31st August, 2008.

iv) Till disposal of the suits the interim order which was operating during the pendency of the suits will continue to operate till disposal of the suit.

v) All contentions of the parties are kept open.

vi) The appeals are partly allowed in above terms with no order as to costs.

vii) The parties and the concerned Court to act on an authenticated copy of this order.

[ANOOP V. MOHTA, J.]